



PATENT
Customer No. 22,852
Attorney Docket No. 05725.0816-02000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Veronique FERRARI et al.

Application No.: 10/787,440

Filing Date: February 27, 2004

For: METHOD OF MAKING A MASCARA
COMPOSITION COMPRISING A
POLYAMIDE POLYMER AND AT LEAST
ONE INERT FILLER (as amended)

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)
) Group Art Unit: 1615
)
) Examiner: Jyothsna A. VENKAT
)
) Allowed: March 21, 2005
)
) Confirmation No.: 4114
)
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)
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MAIL STOP ISSUE FEE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(d)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(d), Applicants bring to the attention of the Office the documents listed on the attached Form PTO/SB/08. This Supplemental Information Disclosure Statement ("IDS") is being filed after the Notice of Allowance dated March 21, 2005, and concurrently with payment of the Issue Fee. In compliance with 37 C.F.R. § 1.97(d), this Supplemental IDS is accompanied by a fee of \$180.00 as specified by 37 C.F.R. § 1.17(p) and a certification as specified by 37 C.F.R. § 1.97(e)(2).

Based on a reasonable inquiry, no document listed in this Supplemental IDS was cited in a communication from a foreign patent office in a counterpart foreign application

and no document listed in this Supplemental IDS was known to any individual designated in 37 C.F.R. § 1.56(c), more than three (3) months prior to the filing date of this Supplemental IDS.

Copies of the newly listed documents, excluding any U.S. Patents, are attached. Applicants respectfully request that the Office consider the listed documents and indicate this consideration by making appropriate notations on the attached Form.

Further to the Notification of Pending Litigation filed on July 23, 2004, in the above-referenced application, Applicants submit two additional documents from the on-going litigation *L'Oreal S.A., et al. v. Estee Lauder Companies Inc., et al.*, Civil Action No. 04-1660 (D.N.J.). The first document is a copy of Estee Lauder's Amended Answer and Counterclaims, dated April 21, 2005, and the second document is a copy of Estee Lauder's Response to Plaintiff's Third Set of Interrogatories (Nos. 8-13), dated June 21, 2005. Both of these documents are enclosed with this Supplemental Information Disclosure Statement and listed on the IDS Form PTO/SB/08.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under amended 37 C.F.R. § 1.56 and, thus, applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants do not represent that the Office Actions in the co-pending applications are material to the present application and do not admit that any of the other claims are substantially similar, out of an abundance of caution Applicants have listed the substantive Office Actions issued in co-pending applications on the attached PTO/SB/08. At the

Examiner's request, Applicants have not included copies those Office Actions issued in the co-pending applications by the present Examiner of this application.

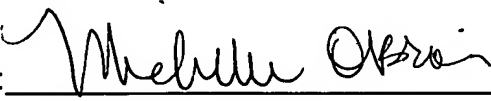
This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Office applies any of the listed documents as prior art against any claims in this application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents. Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any additional fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

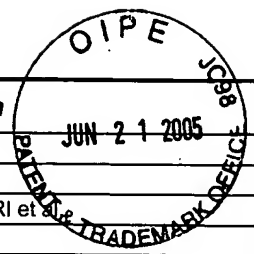
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 21, 2005

By: 
Michelle E. O'Brien
Reg. No. 46,203

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Application Number	10/787,440
				Filing Date	February 27, 2004
				First Named Inventor	Veronique FERRARI et al.
				Art Unit	1615
				Examiner Name	J. VENKAT
Sheet	1	of	1	Attorney Docket Number	05725.0816-02000



U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS					
Examiner Initials	Cite No. ¹	Document Number	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ^{II} (if known)			
		US-5,843,417	12/1/1998	Hanna et al.	
		US-6,214,326	4/10/2001	Dupuis	
		US-6,506,716	1/14/2003	Delplancke et al.	

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation ^{VI}
		Country Code ^{III} Number ^{IV} Kind Code ^V (if known)				

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation ⁶
		Estee Lauder's Response to Plaintiff's Third Set of Interrogatories (Nos. 8-13), dated June 21, 2005, in the on-going litigation L'Oreal S.A., et al., v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.).	
		Estee Lauder's Amended Answer and Counterclaims, dated April 21, 2005, in the on-going litigation L'Oreal S.A., et al., v. The Estee Lauder Companies Inc., et al., Civil Action No. 04-1660 (D.N.J.).	
		Office Action in co-pending Application No. 10/203,375 (Attorney Docket No. 06028.0018) dated May 13, 2005 (Ex. Punnoose).	
		Office Action in co-pending Application No. 09/733,900 (Attorney Docket No. 05725.0595) dated June 2, 2005 (Ex. Venkat).	
		Office Action in co-pending Application No. 10/012,052 (Attorney Docket No. 05725.1005) dated June 3, 2005 (Ex. Venkat).	
		Office Action in co-pending Application No. 10/699,780 (Attorney Docket No. 05725.0895-02000) dated June 15, 2005 (Ex. Venkat).	

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.